

Exhibit 85

Redacted Public Version

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Page 1

1 IN THE UNITED STATES DISTRICT COURT.

2 FOR THE SOUTHERN DISTRICT OF NEW YORK

3
4 NIKE, INC.,

5 Plaintiff,

6 vs.

Case No. 22-CV-983 (VEC)

7 STOCKX, LLC,

8 Defendant.

9
10
11 HIGHLY CONFIDENTIAL

12
13 The Videotaped Deposition of JACOB FENTON,

14 Taken at 28 West Adams Avenue, Suite 1500,

15 Detroit, Michigan,

16 Commencing at 8:48 a.m.,

17 Friday, December 2, 2022,

18 Before Stenographic Shorthand Reporter,

19 Lori Ann Baldwin, CSR-5207, RPR, CRR.

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3 TAMAR Y. DUVDEVANI	3 JACOB FENTON
4 GABRIELLE VELKES	4
5 DLA Piper LLP (US)	5 EXAMINATION BY MS. DUVDEVANI:
6 1251 Avenue of the Americas	6 9
7 New York, New York 10020-1104	7 EXAMINATION BY MS. BANNIGAN:
8 212.335.4799	8 175
9 tamar.duvdevani@dlapiper.com	9 EXHIBITS
10 gabrielle.velkes@us.dlapiper.com	10 EXHIBIT PAGE
11 Appearing on behalf of Plaintiff.	11 (Exhibits attached to transcript.)
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13 CHRISTOPHER S. FORD	13 DEPOSITION EXHIBIT 1 22
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15 650 California Street	15 Plaintiff's First Set of
16 San Francisco, California 94108	16 Interrogatories
17 415.738.5705	17 DEPOSITION EXHIBIT 2 25
18 csford@debevoise.com	18 Defendant's Objections and Responses to
19 Appearing on behalf of Defendant.	19 Plaintiff's Second Set of
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3 MEGAN K. BANNIGAN	3 STX0018453-STX0018499
4 CATHERINE WALSH	4 DEPOSITION EXHIBIT 7 60
5 Debevoise & Plimpton LLP	5 STX0019269-STX19273
6 919 Third Avenue	6 DEPOSITION EXHIBIT 8 64
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11 Appearing on behalf of Defendant.	11 STX0019985-STX0010006
12	12 DEPOSITION EXHIBIT 11 81
13 ALSO PRESENT:	13 STX0020185-STX0020188
14 Laura Lewis - In-house Counsel for StockX, LLC	14 DEPOSITION EXHIBIT 12 84
15 Nicholas Houslander - Videographer	15 STX0018010-STX0018014
16	16 DEPOSITION EXHIBIT 13 93
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20	20 DEPOSITION EXHIBIT 15 102
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25	25 STX0041984-STX0041988

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<p>Page 6</p> <p>1 DEPOSITION EXHIBIT 18 117</p> <p>2 STX0043497-STX0043499</p> <p>3 DEPOSITION EXHIBIT 19 118</p> <p>4 STX0053450-STX0053451</p> <p>5 DEPOSITION EXHIBIT 20 124</p> <p>6 STX0061838-STX0061842</p> <p>7 DEPOSITION EXHIBIT 21 128</p> <p>8 STX61927-STX61931</p> <p>9 DEPOSITION EXHIBIT 22 138</p> <p>10 STX0092816</p> <p>11 DEPOSITION EXHIBIT 23 146</p> <p>12 STX0096301-STX0096306</p> <p>13 DEPOSITION EXHIBIT 24 147</p> <p>14 STX00928240-STX0092825</p> <p>15 DEPOSITION EXHIBIT 25 156</p> <p>16 NIKE0038783-NIKE0038788</p> <p>17 DEPOSITION EXHIBIT 26 157</p> <p>18 STX0097403</p> <p>19 DEPOSITION EXHIBIT 27 161</p> <p>20 STX0097786-STX0097797</p> <p>21 DEPOSITION EXHIBIT 28 166</p> <p>22 STX0099953-STX0099954</p> <p>23 DEPOSITION EXHIBIT 29 169</p> <p>24 STX0169269-00169277</p> <p>25</p>	<p>Page 8</p> <p>1 I am not authorized to administer an oath.</p> <p>2 I am not related to any party in this action, nor am I</p> <p>3 financially interested in the outcome.</p> <p>4 Counsel and all present in the room will</p> <p>5 now state their appearances and affiliations for the</p> <p>6 record. If there are any objection to the proceeding,</p> <p>7 please state them at the time of your appearance</p> <p>8 beginning with the noticing attorney.</p> <p>9 MS. DUVDEVANI: Good morning. Tamar</p> <p>10 Duvdevani, DLA Piper, on behalf of Nike, Inc.</p> <p>11 MS. VELKES: Good morning. Gabrielle</p> <p>12 Velkes from DLA Piper, on behalf of Nike, Inc.</p> <p>13 MS. BANNIGAN: Good morning. Megan</p> <p>14 Bannigan from Debevoise & Plimpton on behalf of</p> <p>15 StockX.</p> <p>16 With me today are my colleagues from</p> <p>17 Debevoise & Plimpton, Christopher Ford and Catherine</p> <p>18 Walsh, as well as Laura Lewis, in-house counsel for</p> <p>19 StockX.</p> <p>20 THE WITNESS: Jacob Fenton.</p> <p>21 THE REPORTER: Sir, can I ask you to raise</p> <p>22 your right hand, please?</p> <p>23 JACOB FENTON,</p> <p>24 Was thereupon called as a witness herein, and after</p> <p>25 having first been duly sworn to testify to the truth,</p>
<p>Page 7</p> <p>1 Detroit, Michigan</p> <p>2 Friday, December 2, 2022</p> <p>3 8:48 a.m.</p> <p>4</p> <p>5 VIDEO TECHNICIAN: Good morning. We are</p> <p>6 going on the record at 8:48 a.m. on Friday,</p> <p>7 December 2nd, 2022. Please note that microphones are</p> <p>8 sensitive and may pick up whispering, private</p> <p>9 conversations, and cellular interference. Please turn</p> <p>10 off all cell phones or place them away from the</p> <p>11 microphones as they can interfere with the deposition</p> <p>12 audio. Audio and video recording will continue to</p> <p>13 take place unless all parties agree to go off the</p> <p>14 record.</p> <p>15 This is the videotaped deposition of</p> <p>16 Jacob Fenton taken by counsel for the plaintiff in the</p> <p>17 matter of Nike, Incorporated versus StockX, LLC filed</p> <p>18 in the United States District Court for the Southern</p> <p>19 District of New York, case number 22-cv-00983-VEC.</p> <p>20 This deposition is being held at</p> <p>21 28 West Adams Avenue in Detroit, Michigan, 48226. My</p> <p>22 name is Nicholas Houslander from the firm Veritext</p> <p>23 Legal Solutions and I'm the videographer. The court</p> <p>24 reporter today is Lori Baldwin, from the firm Veritext</p> <p>25 Legal Solutions.</p>	<p>Page 9</p> <p>1 the whole truth and nothing but the truth, was</p> <p>2 examined and testified as follows:</p> <p>3 THE REPORTER: Thanks.</p> <p>4 EXAMINATION</p> <p>5 BY MS. DUVDEVANI:</p> <p>6 Q. Good morning, Mr. Fenton.</p> <p>7 A. Good morning.</p> <p>8 Q. Have you ever been deposed before?</p> <p>9 A. No, I have not.</p> <p>10 Q. I had a sense. I -- I'm sure that Megan went over</p> <p>11 some ground rules with you, so I'll be brief. Most</p> <p>12 important ground rule is to try not to talk over one</p> <p>13 another so Lori doesn't kill us and so we can get a --</p> <p>14 a clean transcript.</p> <p>15 Even though we are keen to try to get out</p> <p>16 of here as early as possible on this brisk Friday, the</p> <p>17 day really is yours. To the extent you need a break,</p> <p>18 you just let me know, I will try to take a short break</p> <p>19 every hour or so. The only thing that I would ask of</p> <p>20 you is not to ask for a break while a question is</p> <p>21 pending, only after you answer a question.</p> <p>22 Do you understand all that?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Did you prepare for today's deposition?</p> <p>25 A. Yes.</p>

3 (Pages 6 - 9)

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1 about, like, kind of, you know, tenets or aspirations,
2 things that we, you know, want to remember as we think
3 about our -- our corporate strategy.

4 Q. Understood. Looking at the bottom of that page, the
5 last bullet point, "Authentication is at the core of
6 the experience and StockX set the industry standard."
7 Starting with "Authentication is at the
8 core of the experience," what does that mean?

9 A. It means that it's been a value proposition of ours
10 for -- since our inception, to -- to do the very best
11 we can to ensure that customers get exactly they want
12 on the secondary market. And that's how we, you know,
13 grew our reputation in the community and it's very
14 important to us. It's a key part of our -- our
15 offering and we take it very seriously.

16 Q. And when you -- when it's written here "StockX set the
17 industry standard," what does that mean?

18 A. It means that, I think, before us there wasn't a
19 concept of sneaker authenticators. We set that
20 industry standard. We've -- and that's what I believe
21 it means.

22 Q. And the bullet underneath that says, "Proven in-house
23 authentication process has an accuracy rate of 99.95
24 percent."

25 Do you see that?

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1 that other customers don't.
2 BY MS. DUVDEVANI:
3 Q. So is it fair to say that some customers wouldn't know
4 the difference between a genuine product and a
5 counterfeit product?
6 MS. BANNIGAN: Objection to form.
7 A. I think that's fair.
8 BY MS. DUVDEVANI:
9 Q. Mr. Fenton, the court reporter has handed you a
10 document designated as Exhibit 12 titled
11 [REDACTED]
12 Are you familiar with this document?
13 A. Just give me a moment.
14 MARKED FOR IDENTIFICATION:
15 DEPOSITION EXHIBIT 12
16 STX0018010-STX0018014
17 11:05 a.m.
18 A. I'm familiar with the content on this document, but I
19 don't remember the specific document.
20 BY MS. DUVDEVANI:

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1 A. I do.
2 Q. How is that 99.95 percent rate calculated?
3 A. To the best of my knowledge, I believe it's calculated
4 as a percentage of customers that reach out to StockX
5 claiming that they have received something that is not
6 in line with their -- with what they expected to get,
7 and that we were essentially wrong, and we fixed it
8 for them.
9 Q. When you say that you "fixed it for them," what does
10 that mean?
11 A. If a customer is able to demonstrate that they've
12 received something that is not what they expected and
13 that they haven't worn it, you know, it has our tag on
14 it, we make it right for them.
15 Q. How do you make it right?
16 A. Either through a refund or by helping them procure
17 another pair.
18 Q. Does that include a customer complaining about
19 purchasing a counterfeit or fake product?
20 A. It does, yes.
21 Q. How would a customer know if they purchased a
22 counterfeit or fake product?
23 MS. BANNIGAN: Objection to form.
24 A. Depends on the customer. A lot of our customers are
25 very savvy and, you know, they might know a towel (ph)

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[illegible]

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1 want to make them happy, we, of course, reserve the
2 right to take it back, but we don't do that
3 programatically.

4 Q. You just testified, "This is not about, this is not
5 what I would classify as those other, you know,
6 errors, that we may have made." What does that refer
7 to?

8 A. We, before the break, we talked about how there are
9 times when something gets past our verification
10 process, and we, if that happens, we void the sale and
11 do everything we can to make that right.

MARKED FOR IDENTIFICATION:

DEPOSITION EXHIBIT 15

STX0021182-STX0021188

11:44 a.m.

16 BY MS. DUVDEVANI:

17 Q. Mr. Fenton, the court reporter has just handed you a
18 document that's been designated as Exhibit 15, titled
19 Brand Page Copy & Design Review, dated October 2020.
20 Please take a look through and let me know when you
21 are done.

22 A. Okay.

23 Q. Do you recognize Exhibit 15?

24 A. I do.

25 Q. What is it?

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Page 103

1 A. This looks like a summary of work we were doing to
2 update what we call our brand pages.

3 Q. And what are your brand pages?

4 A. These are pages, like, "how does our platform work,"
5 you know, about buying, about selling, authentication,
6 about the company, things of that nature.

7 Q. Let's go to STX21186.

8 By the way, is this a presentation that you
9 gave?

10 A. I can't say whether it was a presentation, per se, but
11 I do think I put together this doc.

12 Q. Okay. All right. So looking at 21186, what is this
13 slide talking about?

14 A. This is talking specifically about our Authentication
15 and Verification Page, the goals and the key ideas,
16 and to the right it looks like a mockup of what we
17 hoped to launch.

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<p>Page 110</p> <p>[REDACTED]</p>	<p>Page 112</p> <p>[REDACTED]</p> <p>16 MARKED FOR IDENTIFICATION:</p> <p>17 DEPOSITION EXHIBIT 17</p> <p>18 STX0041984-STX0041988</p> <p>19 12:03 p.m.</p> <p>20 BY MS. DUVDEVANI:</p> <p>21 Q. Mr. Fenton, the court reporter has just handed you a</p> <p>22 document that's been designated Exhibit 16 --</p> <p>23 THE REPORTER: Seventeen.</p> <p>24 MS. DUVDEVANI: What?</p> <p>25 THE REPORTER: Seventeen.</p>
<p>Page 111</p> <p>[REDACTED]</p>	<p>Page 113</p> <p>1 MS. DUVDEVANI: Seventeen?</p> <p>2 BY MS. DUVDEVANI:</p> <p>3 Q. It's an email dated January 11, 2022, from Cheyanne</p> <p>4 Luna. Who is Cheyanne Luna?</p> <p>5 A. She is -- was a graphic designer for us.</p> <p>6 Q. Are you familiar with this document?</p> <p>7 A. Give me a moment, please.</p> <p>8 Q. Sure.</p> <p>9 A. Yes. I'm familiar with this.</p> <p>10 Q. When was the last time you saw this document?</p> <p>11 A. I think I saw parts of it yesterday, but I haven't</p> <p>12 seen this email thread in its entirety in a very long</p> <p>13 time.</p> <p>14 Q. What is the context of this document?</p> <p>15 A. We're looking at the design of the image that shows up</p> <p>16 on the -- on the detail page.</p> <p>17 Q. On the detail page of what?</p> <p>18 A. Of the Vault NFTs.</p> <p>[REDACTED]</p>

29 (Pages 110 - 113)

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1 MS. BANNIGAN: Objection to form.
2 A. I respectfully disagree.
3 BY MS. DUVDEVANI:
4 Q. Why do you disagree with that?
5 A. If -- if there's no mention of dissatisfaction or a
6 problem and we've invested millions of dollars into
7 the people, processes, and technology to perform this
8 service, and we don't hear from customers, we would
9 have no reason to suspect that there was a problem.
10 Q. Do you agree with me that there are some counterfeits
11 out there that are extremely genuine looking products?
12 A. I do.
13 Q. Okay. So isn't it possible that a consumer that
14 purchases a shoe on StockX that's a very good
15 counterfeit wouldn't know to complain to StockX upon
16 receipt of that product?
17 MS. BANNIGAN: Objection to form.
18 A. I -- no, I mean, I think if -- if a customer got
19 something that they had concerns about, they would be
20 able to reach out to us and we would make it right.
21 BY MS. DUVDEVANI:
22 Q. But would every customer know that they have concern
23 with a counterfeit product if they don't know it's
24 counterfeit?
25 MS. BANNIGAN: Objection to form.

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Category	Percentage
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100	100%

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1 BY MS. DUVDEVANI:
2 Q. Let me ask you a different question. Does every
3 StockX consumer know whether or not they are getting a
4 genuine product or a really good counterfeit?
5 MS. BANNIGAN: Objection to form.
6 A. I can't speak to that. I think counterfeits are very
7 good, so it's very possible that some people would not
8 know.
9 BY MS. DUVDEVANI:

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Response	Percentage
U.S. should take action to protect the environment	65%
U.S. should not take action to protect the environment	35%

25 BY MS. DUVDEVANI:

25 BY MS. DUVDEVANI:

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1 CERTIFICATE
 2
 3 STATE OF MICHIGAN
 4 COUNTY OF OAKLAND
 5 LORI ANN BALDWIN, a Notary Public in and
 6 for the above county and state, do hereby certify that
 7 this Videotaped deposition was taken before me at the
 8 time and place hereinbefore set forth; that the
 9 witness was by me first duly sworn to testify to the
 10 truth; that this is a true, full and correct
 11 transcript of my stenographic notes so taken to the
 12 best of my skill and ability; and that I am not
 13 related, nor of counsel to either party, nor
 14 interested in the event of this cause.
 15
 16
 17
 18
 19 *Lori Baldwin*
 20
 21 Lori Ann Baldwin, CSR-5207, RPR, CRR
 22 Notary Public
 23 Oakland County, Michigan
 24 My commission expires: December 21, 2025
 25

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1 ERRATA SHEET
 2 VERITEXT/NEW YORK REPORTING, LLC
 3
 4 CASE NAME: Nike, Inc. v. Stockx, LLC
 5 DATE OF DEPOSITION: December 2, 2022
 6 WITNESS' NAME: Jacob Fenton
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JACOB FENTON

Subscribed and Sworn To
 Before Me This _____ Day
 of _____, 20 ____.

Notary Public
 My Commission Expires _____

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Deposition Date: 12/2/2022**Deponent: Jacob Fenton – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**

Page(s): Line(s)	Now Reads	Should Read	Reason
30:3	at a variety of different things, not one of which is	at a variety of different things, one of which is	Clarification
31:15	by the people who buy cryptocurrency and buy NFTs.	between the people who buy cryptocurrency and buy NFTs.	Transcription Error
31:16	And we saw NFT technologies as a possible way to lower	And we saw the NFT technology as a possible way to lower	Transcription Error
32:6	Vault's, you know, is a name, a marketing name for it,	Vault's, you know, the name, a marketing name for it,	Transcription Error
37:11	Collective although not directly.	Collective although not directly the same .	Transcription Error
38:10	stamp STX001815 (sic) and went through STX0018026.	stamp STX00 18015 and went through STX0018026.	Clarification
44:8	additions are?	editions are?	Transcription Error
47:19	author. Reading that paragraph holistically, the	author. Q. Reading that paragraph holistically, the	Transcription Error

Deposition Date: 12/2/2022**Deponent: Jacob Fenton – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**

Page(s): Line(s)	Now Reads	Should Read	Reason
59:3-4	Okay, yes. Please repeat your question. I know what this is referring to. Trust.	Okay, yes. Please repeat your question. Do I know what this is referring to? Trust.	Transcription Error
64:25	and Goat across a couple of different topics.	and GOAT across a couple of different topics.	Typographical Error
83:25	very savvy and, you know, they might know a towel (ph)	very savvy and, you know, they might know a tell	Transcription Error
89:16	Possibly Tim McCurdy.	Probably Tim McCurdy.	Transcription Error
93:20	what the 99.9 is, nor do I know what these sub bullets	what the 99.99 is, nor do I know what these sub bullets	Transcription Error
95:25	A. So, first of all, this is a talk track for this stack	A. So, first of all, this is a talk track for this deck	Transcription Error
96:2	What this means is that Stock -- you know,	What this means is that StockX -- you know,	Clarification
118:7	things out as clear as humanly possible, but that	things out as clearly as humanly possible, and that	Transcription Error

Deposition Date: 12/2/2022**Deponent: Jacob Fenton – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**

Page(s): Line(s)	Now Reads	Should Read	Reason
123:15	otherwise cause a ton of money to go to	otherwise cost a ton of money to go to	Transcription Error
133:25	I would want to be out way ahead of that.	I would want to, normally , be out way ahead of that.	Transcription Error
155:4	It's, I mean -- I think, it's the collection of	It's, I mean -- I think, I don't know , it's the collection of	Transcription Error
160:6	the right title, but he's helping in our Apps	the right title, but he's helping in our Ops	Transcription Error
162:10	accurate on 99.5 percent of orders, is one of our main	accurate on 99. 95 percent of orders, is one of our main	Transcription Error
168:8	White saying that indicates that it's a StockX NFT	White on something that indicates that it's a StockX NFT	Transcription Error
170:11	company for people who would want to, for some reason	company that would want to, for some reason	Transcription Error

Deposition Date: 12/2/2022**Deponent: Jacob Fenton – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**

Page(s): Line(s)	Now Reads	Should Read	Reason
174:3-4	by “they are not comfortable in the current state due to subjectivity.” I think this is maybe referring to	by “they are not comfortable in the current state calling items fake due to subjectivity.” I think this is maybe referring to	Transcription Error
Passim	StockX, LLC	StockX LLC	Typographical Error

I, Jacob Fenton, do hereby certify under penalty of perjury that I have read the foregoing transcript of my deposition taken on December 2, 2022; that I have made such corrections as appear noted herein; and that my testimony as contained herein, as corrected, is true and correct.

DATED this 4th day of January, 2023.

DocuSigned by:

 7857D63565BC416...
 Jacob Fenton